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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85142; File No. SR-CboeBZX-2019-008]

### **Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Clarify that BZX's Halt Auction Process is Applicable Only to Halt Auctions Following a Regulatory Halt**

February 14, 2019

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 5, 2019, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Cboe BZX Exchange, Inc. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to clarify that BZX's Halt Auction process is applicable only to Halt Auctions following a Regulatory Halt. The text of the proposed rule change is attached [sic] as Exhibit 5.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to clarify that BZX's Halt Auction process is applicable only to Halt Auctions following a Regulatory Halt such as a material news halt, a trading halt following the initiation of the market wide circuit breaker mechanism, or a Trading Pause initiated pursuant to the Plan to Address Extraordinary Market Volatility – i.e., the “Limit Up-Limit Down” or “LULD” Plan. On December 21, 2018, the Exchange filed a proposed rule change to amend the process for re-opening BZX listed securities following a Regulatory Halt.<sup>5</sup> Specifically, the Exchange amended BZX Rule 11.23(d) to provide for a measured and transparent process for re-opening BZX listed securities after a Non-LULD Regulatory Halt that mirrors the Halt Auction process already used by the Exchange following a Trading Pause initiated pursuant to the LULD Plan. As part of that rule filing, which became operative on

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<sup>5</sup> See Securities Exchange Act Release No. 34-84927 (December 21, 2018), 83 FR 67768 (December 31, 2018) (SR-CboeBZX-2018-090).

January 20, 2019, the Exchange differentiated for the first time between the process to be used for Halt Auctions following a Regulatory Halt and the process that would continue to be used for IPO Auctions and Halt Auctions following a Non-Regulatory Halt. In practice, however, Halt Auctions are not conducted in situations where the Exchange has determined to re-open trading in BZX listed securities following a Non-Regulatory Halt. In such rare instances where the Exchange suspends trading for non-regulatory reasons, such as due to a technical or systems issue that is limited to trading on BZX, the Exchange re-opens trading without an auction.

The Exchange therefore proposes to amend its rules to eliminate mistaken references to Halt Auctions following a Non-Regulatory Halt, as described herein. First, BZX Rule 11.23(d) provides that the Exchange will conduct an IPO Auction or Halt Auction for trading in a BZX listed security in an IPO or following a trading halt in that security. The Exchange proposes to amend this rule to instead provide that BZX Rule 11.23(d) applies to trading in a BZX listed security in an IPO or following a Regulatory Halt in that security. The Exchange believes that specifying in BZX Rule 11.23(d) that the Halt Auction process applies specifically to Regulatory Halts, rather than the more generic trading halt, would reduce potential confusion about when a Halt Auction is initiated. Second, the Exchange proposes to amend portions of BZX Rules 11.23(d)(2)(B) and (E) to remove incorrect references to Halt Auctions following a Non-Regulatory Halt. As proposed, BZX rule 11.23(d)(2)(B) would be amended to provide that this paragraph describes the process for extending the Quote-Only Period for IPO Auctions. In addition, BZX rule 11.23(d)(2)(B)(ii) would be amended to remove the reference to IPO Auctions in that subsection since all of BZX Rule 11.23(d)(2)(B) would be limited to such auctions. Furthermore, BZX Rule 11.23(d)(2)(E) would be amended to provide that, for IPO Auctions only, rather than IPO Auctions and Halt Auctions following a Non-Regulatory Halt,

orders will be executed at the price level within the Collar Price Range that maximizes the number of shares executed in the auction. These changes would properly reflect the current operation of the Exchange by stating that certain functionality applies specifically to IPO Auctions, rather than to both IPO Auctions and Halt Auctions following a Non-Regulatory Halt.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>6</sup> in general, and Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. Specifically, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest as it is designed to increase transparency around the operation of Halt Auctions in BZX listed securities.

The Exchange recently filed a proposed rule change to amend its Halt Auction process used to re-open BZX listed securities following a Regulatory Halt. The amended rules, which became operative on January 20, 2019, suggest that the Exchange's Halt Auction process is used to re-open securities following either a Regulatory Halt or a Non-Regulatory Halt. While the substance of that proposed rule change to amend the process for re-opening BZX listed securities following a Non-LULD Regulatory Halt is accurate, the changes that referenced Halt Auctions following a Non-Regulatory Halt were made in error as the Exchange only uses the Halt Auction process to re-open trading in BZX listed securities following a Regulatory Halt. Since a Halt Auction is unnecessary to pool liquidity following a Non-Regulatory Halt, and indeed could be

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<sup>6</sup> 15 U.S.C. § 78f(b).

<sup>7</sup> 15 U.S.C. § 78f(b)(5).

disruptive where continuous trading has continued on other equities markets, the Exchange does not use its auction process following such halts. Instead, the Exchange immediately transitions into continuous trading by entering remaining orders into the BZX Book after the halt is ended and trading can resume. The proposed rule change would correct BZX Rule 11.23(d) to specify that Halt Auctions are only initiated after a Regulatory Halt, and make related changes, such as eliminating incorrect references to Halt Auctions following a Non-Regulatory Halt. The proposed amendments to the Halt Auction rules would therefore serve to ensure that the Exchange's rules are clear and accurate. No changes to the Exchange's systems or procedures are contemplated by this proposed rule change.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to correct erroneous references in BZX Rule 11.23(d) to Halt Auctions following a Non-Regulatory Halt, and clarify that BZX's Halt Auction process is applicable only to Halt Auctions following a Regulatory Halt. As a result, the Exchange believes that the proposed rule change will have no impact on competition but will rather serve to reduce potential confusion about when a Halt Auction is initiated.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission

may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>9</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>10</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>11</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange states that waiver of the 30-day operative delay would allow the Exchange to immediately amend its rules to correct an error, thereby increasing transparency around the Exchange's use of the Halt Auction and ensuring that members and investors are appropriately apprised of the fact that this auction is limited to the resumption of trading following a Regulatory Halt, as has always been its practice. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>12</sup>

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2019-008 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBZX-2019-008. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications

relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2019-008 and should be submitted on or before **[INSERT DATE 21 DAYS FROM PUBLICATION IN THE *FEDERAL REGISTER*]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Eduardo A. Aleman,**  
*Deputy Secretary.*

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<sup>13</sup> 17 CFR 200.30-3(a)(12).



